

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:

THE HONOURABLE MR.JUSTICE THOTTATHIL B.RADHAKRISHNAN
&
THE HONOURABLE MR. JUSTICE A.V.RAMAKRISHNA PILLAI

WEDNESDAY, THE 23RD DAY OF SEPTEMBER 2015/1ST ASWINA, 1937

RP.No. 422 of 2015 () IN LA.App..762/2011

AGAINST THE ORDER/JUDGMENT IN LA.App. 762/2011 of HIGH COURT
OF KERALA DATED 04-04-2012

REVIEW PETITIONER(S)/APPELLANT/1ST RESPONDENT IN LAR:

STATE OF KERALA
REPRESENTED BY THE DISTRICT COLLECTOR
ERNAKULAM 682 030.

BY ADV.R.PADMARAJ, SR.GOVERNMENT PLEADER

RESPONDENT(S)/RESPONDENTS/CLAIMANT & 2ND RESPONDENT IN LAR:

1. JASMIN
W/O.ALIAKBAR, PALLATHUKADAVIL HOUSE
THURAVUKARA, CHOVARA VILLAGE,
ALUVA TALUK, PIN - 683 101.
2. THE DEPUTY INSPECTOR, GENERAL COMMANDANT
DH Q-4, COST GUARD, KOCHI 682 001.

R1 BY ADV. SRI.C.P.WILSON
R2 BY ADV. SRI.N.NAGARESH, ASSISTANT SOLICITOR
GENERAL OF INDIA

THIS REVIEW PETITION HAVING COME UP FOR ADMISSION ON
23-09-2015, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

THOTTATHIL B.RADHAKRISHNAN
&
A.V.RAMAKRISHNA PILLAI, JJ.

R.P.No.422 of 2015
in
L.A.A.No.762 of 2011

Dated this the 23rd day of September, 2015

O R D E R

Thottathil B.Radhakrishnan, J.

- 1.This review petition is by State of Kerala. It seeks review of judgment passed in an appeal filed by a claimant in an acquisition on behalf of the requisitioning authority.
- 2.We have heard the learned senior Government Pleader, the learned counsel for the claimant and the learned counsel representing the requisitioning authority.
- 3.Ext.A5 is a document which was relied on by the trial court for the purpose of determining the market value of the land under acquisition. That document was assimilated and evidentiary value was evaluated by that court and proper adjustment

valuations were made depending upon the extent of the land covered by that document as also the land under acquisition. In the land acquisition appeal, the Division Bench had again considered the contents of that document and had evaluated its different relevant factors, including as to whether it is a small area and whether the value could be fixed on the basis of the rate of land value reflected through Ext.A5 document. The appeal was, accordingly, decided.

4.This review petition is now filed by pleading that Ext.A5 document was in fact a transaction between two persons whose properties would be affected by the acquisition and, therefore, it ought to be taken as one that does not reflect the true value but an inflated value which would subserve the interest of all parties who would be involved as claimants in the acquisition proceedings. We are of the view that this is too specious a plea to be raised in a review petition after the court of first instance had appreciated the evidence and had drawn its decision on the basis of available inferences, presumptions etc. Equally

important is the fact that the Division Bench of this Court had specifically adverted to and considered the contents of Ext.A5 qua the entire materials to adjudicate the land acquisition appeal. We are of the view that there is no error apparent on the face of the record of the judgment warranting interference in exercise of review jurisdiction. We are also unable to see any case of fraud having been practised in obtaining the judgment sought to be reviewed. In that way also, this application for review fails.

5. Before parting, we may record that the learned senior Government Pleader submits that it is now noticed that there is a bunch of cases to which the aforementioned Ext.A5 document may be put to use. We do not see that it is a ground sufficient enough for review of the judgment in which Ext.A5 has been considered and the matter decided on merits. We may also indicate that we doubt whether it is necessary that the State Government as the acquiring authority needs to prosecute such a matter when the requisitioning authority does not dispute the

amount fixed by the land acquisition court or by the appellate court.

In the result, this review petition is dismissed.

(THOTTATHIL B.RADHAKRISHNAN, JUDGE)

(A.V.RAMAKRISHNA PILLAI, JUDGE)

jjg/25/9